



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,671	09/30/2003	William Kress Bodin	AUS920030245US1	6747
34533 7590 03/24/2009 INTERNATIONAL CORP (BLF) c/o BIGGERS & OHANIAN, LLP P.O. BOX 1469 AUSTIN, TX 78767-1469				
EXAMINER				
DONABED, NINOS J				
ART UNIT		PAPER NUMBER		
2444				
MAIL DATE		DELIVERY MODE		
03/24/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/675,671

Applicant(s)

BODIN ET AL.

Examiner

NINOS DONABED

Art Unit

2444

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Response to Amendment

This application has been reassigned to another examiner. This action is in response to Applicant's amendment dated 12/23/2008. Claim 1 is pending in the application.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weaver (United States Patent Application Publication Number 20040116781) in view of Gaukel (United States Patent Number 6100806).

Regarding **Claim 1**,

Weaver teaches a method for creating a user metric pattern, the method comprising: **(See paragraphs [0054] – [0060], Weaver.)**

receiving, within a network, a plurality of disparate user metrics from a metric sensor worn by the user, wherein the user metrics represent indications of user conditions, **(See paragraphs [0053] – [0062], Weaver teaches disparate historical behavior indicators.)**

saving the plurality of disparate user metrics; **(See paragraphs [0053] – [0055], Weaver teaches a working cache memory.)**

editing the subset of the saved disparate user metrics including receiving an editing instruction from a user identifying a user metric and deleting the user metric identified in the editing instruction; **(See paragraphs [0007] – [0010], Weaver teaches editing past behavior records including receiving editing instructions from a user.)**

identifying a subset of the saved disparate user metrics that comprise a user metric pattern comprising mining the saved disparate user metrics, **(See paragraphs [0006] - [0008] and [0256] – [0268], Weaver teaches identifying a behavior pattern for the users including data mining.)**

wherein a user metric pattern is comprised of a plurality of predetermined generic metrics not created specifically for the user and determined to comprise a metric pattern representing a metric state common to many users; **(See paragraphs [0154] [0160], Weaver teaches generic behavior indicators representing behavior common to many users.)**

storing the subset of the saved disparate user metrics as a user metric pattern, further comprising: **(See paragraphs [0178] – [0180], Weaver teaches a behavior pattern record.)**

creating a metric list; and **(See paragraphs [0073] – [0075], Weaver teaches a filtered behavior indicator record.)**

associating the metric list with a user metric pattern data structure; **(See paragraphs [00157] - [0159], Weaver teaches data structures representing behavior indicators.)**

associating an action with the metric pattern comprising retrieving an action ID from an action database, wherein the action is designed to administer devices to affect the user metric state defined by the metric pattern. **(See paragraphs [0068] – [0070] and [0097]- [0099], Weaver teaches identifying an action to be taken in dependence on a behavior pattern and the LSS server is coupled for data communications.)**

Weaver does not explicitly teach wherein the user condition is selected from the group consisting of: body temperature, blood pressure, heart rate, and galvanic skin response;

However Gaukel teaches wherein the user condition is selected from the group consisting of: body temperature, blood pressure, heart rate, and galvanic skin response;(See column 7 line 21 to column 8 line 35, Gaukel teaches a sensor worn by a person/patient which monitors blood pressure.)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have known to combine Weaver with Gaukel because both deal with monitoring and tracking of people. The advantage of applying Gaukel's sensor which can monitor a patient's blood pressure and heart rate into the behavior based life support system of Weaver making it a more efficient and robust system. **(See columns 1-2, Gaukel.)**

Response to Arguments

3. Applicant's arguments filed 12/23/2008 have been fully considered but they are not persuasive.

Applicant's Attorney argues: "The prior art of record does not teach user metrics as claimed in the present application," where a "user metric is a representation of a user condition not a representation of an actor's behavior."

Examiner respectfully disagrees: Examiner points to multiple sections of the Gaukel reference including but not limited to column 1 lines 20-45, column 2 lines 10-30, and column 11 lines 10-47. In these passages as an example, Gaukel indeed teaches a system as having the ability to be programmed to monitor heart rate or blood pressure as well as other user metrics which directly covers the scope of claim 1 of the instant application.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any response to this Office Action should be **faxed** to (571) 272-8300 or **mailed** to:

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, Virginia 22314

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NINOS DONABED whose telephone number is (571)270-3526. The examiner can normally be reached on Monday-Friday, 7:30 AM-5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on (571) 272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/N. D./

Examiner, Art Unit 2444

/William C. Vaughn, Jr./

Supervisory Patent Examiner, Art Unit 2444